

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

IN RE: BAIR HUGGER FORCED AIR
WARMING DEVICES PRODUCTS
LIABILITY LITIGATION

MDL No. 15-2666 (JNE/DTS)

This Document Relates to:

*Tye, et al. v. St. Luke's East Anesthesia Services, P.C.,
et al., No. 19-cv-00294*

**PLAINTIFFS' MOTION TO VACATE JUDGMENT AND REMAND THIS ACTION
OR IN THE ALTERNATIVE
TO DIRECT ENTRY OF FINAL JUDGMENT AGAINST DEFENDANTS 3M
COMPANY AND ARIZANT HEALTHCARE, INC. OR
ENTER AN ORDER PERMITTING AN INTERLOCUTORY APPEAL**

COME NOW Plaintiffs Douglas Tye and Bettie Tye, by and through their attorneys of record, and, pursuant to Federal Rule of Civil Procedure (FRCP) 54(b) and 28 U.S.C. § 1332, and for the reasons set forth in their accompanying Memorandum in Support, move this court to vacate its entry of summary judgment as it relates to this case for lack of subject matter jurisdiction and remand this case to the United States District Court for the Western District of Missouri pursuant to JPML Rule 10.1(b). In the alternative, Plaintiffs move this court to direct entry of a final judgment pursuant to FRCP 54(b) or, in the alternative, move this court to enter an order permitting an interlocutory appeal pursuant to 28 U.S.C. § 1292.

Dated: August 28, 2019

Respectfully submitted,

LANGDON & EMISON LLC

By: /s/ Robert Langdon

Robert Langdon, MO Bar #23233
Michael W. Manners, MO Bar #25394
Brett Emison, MO Bar #52072
Patricia L. Campbell, MO Bar #60917
Langdon & Emison LLC
911 Main Street - P.O. Box 220
Lexington, MO 64067
Telephone: (660) 259-6175
Telefax: (660) 259-4571
bob@lelaw.com
mike@lelaw.com
brett@lelaw.com
tricia@lelaw.com

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of August, 2019, I electronically filed the foregoing with the clerk of the Court using the CM/ECF system, which will send notice of electronic filing to all counsel of record.

/s/Robert Langdon